

## **REMARKS**

### **I. Summary of the Office Action**

The Office Action mailed May 11, 2009 (“the Office Action”) made the following rejection, which is addressed in more detail below:

Claims 28-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004853 (“Ram”) in view of U.S. Patent Application Publication No. 2002/0130868 (“Smith”).

### **II. Interview Summary**

The Applicant thanks the Examiner for the telephonic interview on July 7, 2009 (“the Interview”) with the Applicant’s representative Adam Faier. The Applicant appreciates the Examiner’s time in discussing the present application, the pending claims, the current rejections, and the cited art. The Applicant generally agrees with the Interview Summary mailed July 13, 2009 (“the Interview Summary”). The substance of the Interview, including any agreements, is reflected herein.

The Applicant notes for the record that during the Interview the Examiner tentatively indicated that features of the pending claims differed from those disclosed by the cited art, particularly the Smith reference. While the Applicant does not necessarily agree with the Interview Summary that “a processing step is *needed*” (emphasis added), the Applicant has amended the independent claims to further recite processing features in the interest of expediting prosecution. Additionally, the Applicant has made claim amendments to clarify features recited in the claims as helpfully suggested by the Examiner.

In addition, the Applicant notes for the record that the Examiner and the Applicant discussed that at least dependent claims 36 and 38 may be allowable for reasons independent of their corresponding independent claim, although no agreement was reached and the Examiner may need to further search the art.

### III. Related Applications

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications, as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial Nos. 10/260,644, 11/415,864, and 11/415,854, which are before a different Examiner (Tran) in a different art unit (3694). These cases have been allowed, issued (U.S. Patent No. 7,565,319), and abandoned, respectively.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

### IV. Status of the Claims

The present application includes claims 28-39. By this Response, claims 28, 37, and 39 have been amended.

As noted above, the claims were amended to clarify features as suggested by the Examiner. The Applicant respectfully submits that no new matter has been added by these amendments and that support can be found in the claims themselves as well as throughout the Specification. In particular, with respect to the newly added processing step, the Applicants cite as support at least page 16, lines 16-23 of the Specification.

### V. Claim Rejections – 35 U.S.C. § 103

The Applicant now turns to the rejection of claims 28-39 under 35 U.S.C. § 103(a) as being unpatentable over Ram in view of Smith. The Applicant respectfully submits that the proposed combination of Ram and Smith does not teach or suggest the entirety of the features recited in the pending claims for at least the reasons discussed below.

Ram has been previously discussed and for brevity that discussion will not be repeated here. The Office Action at page 5 stated that “Ram does not show receiving via the computing device a definition for an annotation, wherein the definition includes an annotation price level

and annotation information specified by a user, wherein the annotation price level includes at least one price level of the tradeable object; and displaying via the computing device the annotation information along the price axis at the annotation price level.” The Applicant agrees. In particular, the Applicant respectfully submits that Ram does not teach or suggest at least these features recited in the pending claims:

- receiving via the computing device a definition for an annotation, wherein the definition includes an annotation price level and annotation information, wherein the definition is specified by a user, wherein the annotation price level includes at least one price level for the tradeable object;
- processing via the computing device the definition to determine that at least one of the price levels of the annotation price level is within the plurality of price levels of the price axis; and
- displaying via the computing device the annotation by displaying the annotation information along the price axis at the at least one of the price levels of the annotation price level determined to be within the plurality of price levels of the price axis.

The Office Action turned to Smith to cure these deficiencies of Ram. Smith has been previously discussed and for brevity that discussion will not be repeated in its entirety.

As previously discussed, Smith generally relates to an interface for inputting and viewing information related to financial instruments using graphical presentations, multimedia, and communication facilities integrated into one display.

Paragraph [0129] of Smith notes that the analyst screens shown in Figures 10-15 are capable of being actuated by the analyst at any point on the graph and grid line including the chart of financial data. Alternatively, the analyst may select the point of annotation as being on the axis of the graph/chart; for example, the time and date indices on the horizontal axis, or price, volume, rate, and/or ratio indices on the vertical axis, as shown in Figure 10.

The Applicant respectfully submits that Figure 10 of Smith does not show an annotation **along** a price axis as recited in the pending claims. Rather, the Applicant respectfully submits that these statements in Smith should be interpreted to mean that an annotation can be associated

with a point in the graph that is not part of the displayed financial data but is rather a point at a particular time/date and/or a particular price/volume/rate/ratio.

As further support, the Applicant draws the Examiner's attention to paragraph [0131] which states that "for analyst-inputted textual annotations associated with . . . a specified axis point on the chart, each annotation remains associated with the . . . specified point, even as the older data 'drops off' the chart as time passes by." Smith gives an example of this in paragraph [0131], stating "as shown in FIGS. 11-12, an analyst may have previously entered a first annotation such as 'Ranger support marks . . . ,' with the first commentary indexed to the financial data at, for example, the date around Oct. 11, 1999 . . . ." Thus, as can be seen in Figures 11 and 12 of Smith, the example annotation, which is associated with the specified point on the date axis (11-10-1999), can be seen to "move" to the left as time passes by. This annotation is clearly not along the date axis, but rather, as submitted above, is simply associated with a point on the graph that is not part of the displayed financial data but rather is associated with a point at a particular date. As noted in paragraph [0133], Figures 13-14 show the chart updated with new financial data and the date index 11-10-1999 has "extend[ed] leftward off the chart, such that the leftmost date index becomes 12-10-1999, [and] the first commentary is removed from the screen; that is, the text of the first commentary appears to scroll leftward out of the viewable chart window of the predetermined time duration . . . ." The Applicant respectfully submits that similar behavior would be seen for an annotation in Smith associated with a point on the graph that is not part of the displayed financial data but rather is associated with a point at a particular price level. That is, as the chart updates, that annotation would move to the left off of the chart.

Therefore, the Applicant respectfully submits that Smith does not teach or suggest displaying the annotation by displaying the annotation information along the price axis at the annotation price level. Rather, as discussed above, Smith merely allows the annotation to be associated with a point on the graph associated with a price on the price axis. The Applicant respectfully submits that as time passes such an annotation would move off of the display, and thus the annotation is not displayed along the price axis.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, Smith does not cure the deficiencies of Ram discussed above.

Thus, the proposed combination of Ram and Smith cannot and does not teach or suggest the entirety of the features recited in the pending claims. Therefore, the Applicant respectfully submits that independent claims 28 and 39 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 29-38, these claims depend from independent claims 28. The Applicant respectfully submits that claims 29-38 should be allowed for at least the reason that they each depend from an allowable claim.

#### VI. Conclusion

In general, the Office Action made various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialogue would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney.

Respectfully submitted,

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